

**MINUTES OF THE
MARICOPA ASSOCIATION OF GOVERNMENTS
TRANSPORTATION POLICY COMMITTEE MEETING**

December 17, 2003
MAG Office, Saguaro Room
Phoenix, Arizona

MEMBERS ATTENDING

Mayor Neil Giuliano, Tempe, Chair
Mayor Elaine Scruggs, Glendale, Vice Chair
Benito Almanza, Bank of America Arizona
F. Rockne Arnett, Citizens Transportation
Oversight Committee
Mayor Steven Berman, Gilbert
Dave Berry, Swift Transportation
Jed S. Billings, FNF Construction
Councilmember Peggy Bilsten, Phoenix
Mayor James Cavanaugh, Goodyear
Councilmember Pat Dennis, Peoria
* Mayor Ron Drake, Avondale

Mayor Boyd Dunn, Chandler
#Rusty Gant, ADOT
Mayor Keno Hawker, Mesa
*Eneas Kane, DMB Associates
Mayor Mary Manross, Scottsdale
#Mayor Lon McDermott, Wickenburg
*Diane Scherer, Phoenix Association of Realtors
Vice Mayor Daniel Schweiker, Paradise Valley
Martin Shultz, Pinnacle West Capital Corp.
Supervisor Don Stapley, Maricopa County
Mayor J. Woodfin Thomas, Litchfield Park

* Not present

Participated by videoconference or telephone conference call

1. **Call to Order**

The meeting of the Transportation Policy Committee (TPC) was called to order by Chairman Neil Giuliano at 4:10 p.m.

2. **Pledge of Allegiance**

The Pledge of Allegiance was recited.

Chairman Giuliano announced that Mayor Lon McDermott and Rusty Gant were participating via videoconference call. He stated that material for agenda item #5, Proposed Election Authorization Legislation, and an updated TPC progress timeline was at each place. Chairman Giuliano announced that transit tickets were available for those who used transit to come to the meeting. Validation was available from MAG staff for those who parked in the parking garage.

3. **Call to the Audience**

Chairman Giuliano stated that an opportunity is provided to the public to address the Transportation Policy Committee on items that are not on the agenda that are within the jurisdiction of MAG, or non-action agenda items that are on the agenda for discussion or information only. Citizens will be requested not to exceed a three minute time period for their comments.

Chairman Giuliano recognized public comment from Blue Crowley, who stated that he had been told there was no transit to Komatke because the southwest area of the Valley had not been settled until 1945. He noted that Native Americans have lived in Komatke since the 1700's. Mr. Crowley added that there has been Hispanic communities in Avondale, Cashion, and Tolleson since the 1600's. Mr. Crowley stated that he had spoken to the Governor and asked her to look at the Plan as a total, that the tax needs to be one cent, and freeways and light rail need to be done together in the same right of way with one-third of the one cent sales tax. Mr. Crowley stated that we are behind the curve on roadways, and have not done bike, pedestrian, and rubber tired transit to the level they should be done. He commented that Grand Avenue was redesigned so there is no transit, because there are no transit stops. Mr. Crowley stated that the cities complain that there is no cooperation with the rail roads, but we need heavy rail, not light rail. Mr. Crowley stated that he did not consider the light rail line from Phoenix to Paradise Valley Mall a regional project. Mr. Crowley stated that the proposed changes to CTOC in the legislation do not mention anything about reimbursement. He stated that he considered the \$25 meal a reimbursement. Do the law according to what it is, and get the job done correctly. Mr. Crowley warned that the Legislature is planning on tinkering with the Plan. Chairman Giuliano thanked Mr. Crowley for his comments.

4. Approval of November 12, 2003 Meeting Minutes

Mr. Shultz moved to approve the November 12, 2003 meeting minutes. Vice Mayor Schweiker seconded, and the motion carried unanimously.

5. Proposed Election Authorization Legislation

Chairman Giuliano stated that incremental progress is being made toward achieving a mutual goal to have the legislation for the sales tax extension signed by the Governor on February 3, 2004. He commented that the goal is 40-20-1 to work toward the May 18th election. Chairman Giuliano stated that Dennis Smith would be reporting on legislation issues, the summary of which was at each place.

Mr. Shultz commented that the legislation would not be introduced until January 12, 2004, when the legislative session opens. Under the current process, numerous committee and floor actions would be required. Because this is a complex and balanced Plan, it will take time to explain to members and gain their confidence that this is as good a Plan as the unanimous votes indicate. Mr. Shultz stated that there is urgency to this bill—it has to be produced in close to final form as soon as possible.

Mr. Smith proceeded with his report on legislation. He acknowledged the assistance of those on the legislation drafting committee: Patrice Kraus, Kristin Greene Skabo, Brian Townsend, Peggy Carpenter, Jim Huling, Norris Nordvold, Clem Ligocki, Chuck Coughlin, Victor Riches, and John Halikowski, along with the ongoing assistance of all of the intergovernmental representatives. Mr. Smith noted that he had just returned from a meeting on the legislation that was also attended by Mr. Shultz, Mr. Berry, Representative Gary Pierce, and Senator Robert Blendu. He stated that everyone has been working to get a consensus bill drafted. The bill is very close, but there are significant policy issues outstanding on both sides.

Mr. Smith explained the legislation summary, which showed by column what the legislative staff drafted, what MAG and the business coalition drafted, and where there was agreement. He explained that the business coalition and MAG agree on the following: the election date, three firewalls, the audit standards, the consultation process as set forth in HB 2292, and having one measure on the ballot with

no bifurcated vote. Mr. Smith reviewed the items for which agreement has not yet been reached: appointment of the business representatives to the TPC, utility relocation costs, the audit in regard to not warranted projects, and CTOC duties.

Mr. Smith commented that concerns on the audit go back to accountability. All agree that when the Plan is on the ballot, we will do everything possible to deliver the Plan. He indicated that this is the assurance that Senator Blendu is driving for. Mr. Smith stated that it was suggested that an audit subcommittee would be formed that would receive interim reports from the auditor to ensure that the audit process was accurate. He noted that having a continuous review by the subcommittee would also serve to not have surprise findings at the completion of the audit. Mr. Smith explained that the legislative draft says that if the audit determined that a project was not warranted, funding would stop unless the RPTA, Board of Supervisors, and CTOC confirm approval of the project. He stated that one suggestion was to require 17 votes of the TPC, a 3/4 majority, for the project to proceed. Mr. Smith noted that all agreed that the ultimate authority is the Regional Council, because this authority has been designated to it by federal law. However, it would be very difficult for the Regional Council to override the TPC decision.

Chairman Giuliano commented that he thought some level of concurrent review of the audit would be needed so there would be time to prepare a response or solution. Mr. Smith stated that the consultation period was 45 days in the draft legislation, which could be subject to negotiation. Chairman Giuliano questioned why there was disagreement over the management of the issue. The TPC would have to review and figure alternatives, or support it with a 3/4 vote. Mr. Smith that the business coalition has not had the opportunity to go back to their members, but the legislative staff seemed interested in the idea.

Mr. Shultz commented that the concept of substantial public notice and a decision based on fact satisfies the requirements of the TPC. The TPC recognizes the possibility that the Plan may need modification in the future based on analysis. Mr. Shultz stated that this process represents an organized way to make a change. It is an orderly process with substantial public notice and time for deliberation based on data. He urged giving this process time to gestate, then make an informed decision.

Mr. Smith stated that Senator Blendu said at the meeting that he wants a “bright light for future change.” He indicated that a significant public process for “not warranted findings” is included in the proposed consensus draft—the same high-standard process for major plan amendments. Mr. Smith stated that language for firewalls is included to ensure that funding stays within each mode and each corridor.

Mayor Manross asked for clarification that the majority to override the not warranted finding would not also include a requirement of a majority of the business representatives. Mr. Smith stated that the 17 vote majority would imply including the business representatives because the 17 would reach beyond the local governments’ representation, which is 13. However, the business representatives were not called out specifically. Mr. Smith stated that regional business, transit, and freight representatives are defined in statute. In addition, the proposed consensus draft includes a construction representative. The other two would be undefined.

Mr. Berry stated that the differences to reach a consensus keep decreasing. He encouraged continuing forward and agreement will be reached.

Consensus was noted for staff to continue to negotiate on the points just discussed.

Mr. Smith reviewed issues on major amendments. He noted the proposed consensus draft includes language that a major amendment includes a consultation process with RPTA, the County, and ADOT for their recommendations. Mr. Smith noted that one provision in the legislative draft includes going back to RPTA, the County, and CTOC and asking for a vote to approve a major amendment, which is a different concept. He stated that he had recently met with Supervisor Stapley and Supervisor Max Wilson. Mr. Smith said that Supervisor Stapley had indicated that they wanted to ensure they are not saying they have approval or blocking power over the Regional Council. Additionally, they agree that the Regional Council decision trumps any other decision because of federal law.

Supervisor Stapley commented that the TPC needs to ask why this legislation was drafted the way it was. He expressed that he believed the Legislature's desire is to have another set of eyes looking at the amendment and audit processes. Knowing that the Regional Council can overturn anything in those processes, it is not truly a veto. Supervisor Stapley stated that the approvals would set the bar higher and makes it more difficult for the Regional Council to make changes. He commented that kind of process would be healthy and would provide for a separate body of elected officials and agencies looking at the process to confirm or reject amendments or audit findings. Supervisor Stapley said that many Maricopa County legislators are demanding a bifurcated vote because they have issues with light rail. He remarked that they are trying to assure their constituencies that light rail will be looked at after five years through the audit process and will only continue if it is successful and meets the criteria. Supervisor Stapley commented that he was confident that it will. He expressed that he felt it was unwise to buck the Legislature and insist they stay with how things have been done at MAG in the past. Supervisor Stapley stated that they have indicated the legislature wants a stronger check and balance system.

Chairman Giuliano asked for clarification of the 45-day consultation period. Mr. Smith replied that the suggestion is to use the HB 2292 consultation process requires written recommendations from the County, ADOT and RPTA, whereas, this would be an approval. Mr. Smith commented that it would be a challenge to be straightforward with voters if the approval action was included in statute, because a clause would need to be included that says that this provision notwithstanding, the Regional Council is still the authority.

Chairman Giuliano commented that an approval from the agencies would not really be an approval anyway, because the ultimate decision comes back to the Regional Council.

Supervisor Stapley replied that Chairman Giuliano's comment was correct. However, the goal is 40-20-1, and many must be brought on board. He remarked that the leadership is saying they want other processes independent of MAG to ensure accountability to the voters.

Councilmember Bilsten commented that it sounded like another layer of bureaucracy was being added. She remarked that the County has not supported light rail and she expressed concern that Supervisor Stapley was saying let light rail come back before the County to see how it is performing. Councilmember Bilsten stated that she needed assurance that all they will do is put their eyes on it. If it is more than that, the City of Phoenix would have concerns. She remarked that she was unsure if the County could be open-minded on light rail. She questioned whether this meant we need to have one more set of eyes in order to get this through the Legislature?

Mayor Berman stated that some East Valley legislators have indicated they have a problem with light rail and feel there should be a bifurcated vote, with light rail as a separate issue. He stated that they also

feel that light rail would not pass, because they feel that light rail is a trolley system, not a system like the Metro in Washington, DC. Mayor Berman stated that they feel if light rail performs poorly, the citizens could be locked in for 15-20 years. He added that they may try to kill the bill if the vote is not bifurcated.

Supervisor Stapley commented that the County has not taken an official position on light rail because they are not involved with it except through the TPC process. He suggested that to get to the 40-20-1, will require some compromise. The Regional Council is the ultimate decision maker, so why fight the Legislature? Work with them and use their language. Supervisor Stapley said that the proposed process will not take more time than the HB 2292 process. Supervisor Stapley stated that he had heard Senator Blendu and Representative Pierce ask to help them bring in the vote of the anti-light rail people by having a check and balance system.

Chairman Giuliano commented that there has to be an understanding that the notwithstanding clause has to be included. Supervisor Stapley stated that he understood that, but there are legislators who do not understand it.

Mayor Thomas commented that firewalls are the protection for the corridor and mode in this process.

Mr. Smith commented that he heard clearly today that the Legislature wants to ensure independence by having the 17-vote requirement, which would force the TPC to go outside the cities for approval. He advised that the process for appointing business representatives to the TPC is an issue with the Legislature.

Mayor Manross stated that the process for the approval of a major amendment is unclear. She stated that it needs clarity for the public to support it, and without it, could become a point that is argued for years.

Chairman Giuliano stated that the difference is that after the 45-day consultation period, instead of a written recommendation, the consulting agencies would take a vote on approval or non-approval. Mr. Smith noted that in addition, ADOT is not included in the consultation process, according to the legislative draft. He explained that they are a part of the cooperatively developed planning process, and are a major partner in this process along with RPTA.

Mayor Manross asked if this would violate federal law the way it is written? Mr. Smith explained that according to federal law, in order for MAG to move forward with a Plan or TIP, they must be developed in cooperation with the DOT. If a process is set to override the DOT, that could have significant issues with the federal law.

Vice Mayor Schweiker commented that he was not necessarily in favor of another layer of government, but he understood that the Regional Council has the final authority. If we have to bend a bit to get to the 40-20-1, it would not necessarily be a deal killer. It is important to get the 40-20-1.

Supervisor Stapley clarified that he did not know why the legislative draft eliminated ADOT and why the changes were made to CTOC.

Mayor Manross asked the level of reliance on the approvals that could be made. Would approvals be just an opinion? Mr. Smith replied that approvals would be strong actions from those agencies. He

explained that currently, the five CTOC members are appointed by the Board of Supervisors, and the Chair is appointed by the Governor. According to the draft legislation, appointments would be made by the Speaker and the President, along with the five by the Board of Supervisors, and the Chair would no longer be selected by the Governor, but by the CTOC members. Mr. Smith added that he did not think that changing CTOC was getting much support. He stated that CTOC was set up as oversight over the development of the Plan. According to the legislative draft, CTOC would be developing the Plan, and he was not sure they could accomplish the original task of oversight.

Mayor Cavanaugh asked how would that language change if there is agreement with Supervisor Stapley's and Supervisor Wilson's language? Mr. Smith replied that the HB 2292 language says the Plan is submitted to member agencies and the Indian Communities. The Plan is also submitted to RPTA, ADOT and the County for written recommendations. According to the legislative draft, the agencies would have to approve or disapprove. He said that Supervisor Stapley indicated that the approvals concept is saying that this is a high hurdle, but does not trump the Regional Council. Mr. Smith expressed concern that the notwithstanding clause could be easy to strip in a conference committee.

Mr. Almanza asked for clarification if they could change the meaning of what is going on with the TPC. Mr. Smith replied that a compromise of a 3/4 vote was discussed in the attempt to give the audit teeth and also keep the decision within MAG.

Mayor Thomas expressed concern for remaining options if the notwithstanding clause was stripped in conference committee. Mr. Smith replied that we could have a running argument with the Legislature for years over who is in charge. Mayor Thomas asked if there would be no opportunity to readdress the decision? Mr. Smith replied there would be no opportunity, it would go to the floor and be voted on.

Councilmember Dennis commented that the Legislature passed and approved HB 2292, so they must have felt comfortable with the process; therefore, is the issue light rail? Mr. Smith acknowledged that light rail is an issue, but they also want to assure the voters that what goes on the ballot stays in the Plan, unless there would be an extraordinary event to change the Plan. We tried to define an extra process by having a high standard of 17 votes.

Chairman Giuliano asked if the 17-vote concept had been expressed at the time of Mr. Smith's meeting with Supervisors Stapley and Wilson. Mr. Smith replied it had not yet come up at that time. Chairman Giuliano asked Supervisor Stapley if this option was helpful. Supervisor Stapley replied that he could not speak for the Board, which meets on December 22nd. He commented that we have to get 40-20-1. The more you fight with the authors of the bill over these types of issues, the more difficult it will be. Ultimately, the Regional Council has the authority to trump any state law. Supervisor Stapley indicated he did not think it is a problem to work with this language.

Chairman Giuliano commented that majority votes on major amendments had been discussed extensively by the TPC. He stated that it seemed that the TPC might need to go to a 3/4 vote, which is a big step.

Supervisor Stapley questioned what would happen if the Legislature says no to the MAG suggestions? He indicated he did not think the CTOC issue was a big issue, and added that he did not understand the reason to make the change, anyway. Supervisor Stapley commented that there was a lot of room on negotiating certain issues, such as the date of the election. He commented that the legislators might

accept the notwithstanding language; however, if they throw down the gauntlet and say they want separate eyes looking at this, will MAG stand firm or work with them?

Chairman Giuliano replied that would be dealt with in that event. He indicated he did not want to get specific right now because negotiations are in process. Supervisor Stapley commented that we are almost out of time.

Councilmember Dennis suggested having the particular individuals or organizations serve on the audit subcommittee to have that extra set of eyes, and still have that higher level of voting on top of that. She questioned whether the composition of the subcommittee had been discussed. Mr. Smith replied that had not been discussed except that business representatives would need to be on the subcommittee.

Vice Chair Scruggs asked if it was an accurate statement that Supervisor Stapley had made that the Regional Council has the authority to trump state law? Mr. Smith replied that was accurate. He stated that there is general agreement among the County, legislative staff, and the Chair of the House Transportation Committee, that federal law prevails and the MPO has to approve the TIP, Plan and amendments; however, it would put the Regional Council in a difficult position to override a not warranted finding.

Vice Chair Scruggs asked Mr. Smith to provide a review on the creation of CTOC. Mr. Smith replied that CTOC was formed in 1994 when the region wanted citizen oversight of the half cent sales tax. Vice Chair Scruggs asked if state legislation would have to be modified to accommodate the CTOC changes. Mr. Smith replied that was correct. He added that one provision in the draft legislation would be in conflict with federal law, which says that the Plan would be developed cooperatively with MAG, RPTA and ADOT. Mr. Smith noted that the draft legislation says the Plan would be planned cooperatively with CTOC. He noted there is no provision in federal law for a citizens group to cooperatively develop a Plan.

Vice Chair Scruggs commented that it would be outside the purpose or scope of the organization to provide oversight authority and would be moving into a new category. Mr. Smith commented that according to the draft legislation, CTOC would be reviewing their own work.

Mr. Arnett, Chair of CTOC, stated that it is an oversight committee and not charged with anything more. However, if the Legislature gives CTOC additional power, it will perform. He stated that CTOC was formed when changes were being made that some people did not like, there were inadequacies in the Plan, and adjustments were needed. CTOC oversaw the audit and implemented guidelines to ensure performance was in order. Mr. Arnett stated that the system has worked extremely well, and he was satisfied with where CTOC is. He commented that he thought if a 3/4 vote is needed to override an audit, it would be extremely difficult to change the audit. Mr. Arnett stated that he did not think at this point that a second review by CTOC was necessary.

Mr. Smith noted that the CTOC role was expanded in HB 2292 to be the oversight agency for transit.

Mayor Thomas commented that the audit will use FTA criteria to evaluate light rail. If the audit finds light rail is not warranted, will federal law kick in anyway? Mr. Smith replied that if light rail does not meet federal criteria, then the project would not get matching money. Therefore, the project would basically be dead at that point.

Mayor Cavanaugh commented that it seemed wise to stay with the existing language. He expressed that he felt that this should not be a decisive element in the final approval or disapproval of this Plan. Chairman Giuliano noted that this seemed to be an accurate summation of the general consensus of the body.

Supervisor Stapley expressed his disagreement. He commented that he thought it would be better to work with legislative leadership and understand why they drafted the bill. Otherwise, we will set ourselves back.

Discussion took place on the appointment of the business representatives to the TPC. Mr. Smith stated that the TPC has indicated their position to stay with the existing process and add terms and staggering of terms. Mr. Smith stated that the Legislature is interested in the appointments being independent, so the business members would not be beholden to the appointing agency. He stated that he heard today an idea that might be workable. The process would be open to member agencies and the President of the Senate and Speaker of the House to submit names to fill vacancies on the TPC. The Regional Council would take that list to a pool of 12, from which the Speaker and President would appoint six.

Mr. Shultz commented that Representative Pierce's challenge is his members have an expectation to have continuous involvement in the appointment process. The TPC is a local government group and the Legislature is a state group, which raises a new issue. Mr. Shultz stated that Representative Pierce wants to ensure there is independence, and members are not beholden to the appointing agency. Mr. Shultz commented that independence of judgment is an important issue. He stated that definitions of conflict of interest are included in state statute, and such a statement could be applied here. Mr. Shultz stated that it might be an alternative to what Representative Pierce wants to create to have a conflict of interest provision.

Chairman Giuliano asked if the process might be that the TPC might accept the nominations, and the Regional Council would narrow the group to a pool of 12, and the Speaker and President would make the selections from the 12. Mr. Smith stated that discussion had not yet reached that one step further. At present, the nominations would be submitted to the Regional Council. Chairman Giuliano commented that either the Regional Council or the TPC would be acceptable to him.

Councilmember Dennis asked how many names the legislators could submit to the pool. Chairman Giuliano replied that anyone could submit as many names as they wanted. He added that this sort of process is used quite often. Mr. Smith stated that MAG had received the names of a number of qualified candidates at the beginning of the TPC process.

Mayor Dunn asked if there was a reason to have a pool of 12, rather than 10, for example. Mr. Smith replied that the thought was to have a pool of double the number of representatives needed, which is six. He added that the exact number was only a concept, and had not yet been defined. Mr. Smith noted that if it is decided that terms will be staggered, members would not be appointed concurrently.

Mayor Dunn suggested as an alternative that MAG could define the criteria and the legislators could make the selection. He expressed he agreed with submitting two nominations for each vacancy.

Mr. Smith stated that the option he brought up had only been suggested at the meeting that afternoon, and no agreement had been reached. He stated that they also mentioned that some have indicated a desire to have removal for cause to ensure independence.

Mayor Manross commented that having one member representative by the Speaker and one by the President was acceptable one year ago, so why not now? She stated that she could not understand why they want this unless it is to gain more control. Mr. Smith stated that this might be more important now because they are vesting more power on the TPC with the 3/4 vote. Because of the 3/4 vote, the business representatives become more important when making a major change.

Chairman Giuliano reported a suggestion from Vice Chair Scruggs that MAG could make the appointments, which would be subject to confirmation by the legislative transportation committees.

Mr. Arnett asked for clarification that all six business representatives would be appointed by the President and the Speaker. Mr. Smith replied that was correct. Mr. Arnett asked if there had been any discussion about other criteria, such as regional representation, construction, or transportation. Mr. Smith replied that regional business, freight, and construction interests are defined in statute. Mr. Arnett asked if those would be taken into consideration with nominations. Mr. Smith replied that they would.

Mayor Thomas stated that he thought three representatives appointed by legislators would be appropriate. He expressed concern with the super majority requirements wresting the decision to the minority. He noted that light rail is an example—people could be sought out who meet certain criteria and could hold sway over the body. Mayor Thomas expressed concern on the regional balance. He commented that he appreciated the geographic mix the TPC presently has.

Mayor Cavanaugh stated that he preferred two nominations for one vacancy. He thought this option would be acceptable to both MAG and the Legislature.

Vice Mayor Schweiker expressed concern that confirmations could be delayed. Important votes could be impacted by not confirming the appointments, and there could also be a refusal to fill vacancies.

Mr. Shultz stated his agreement with Mayor Cavanaugh. He stated that the concept to have six appointments from the pool of 12 offered by MAG, along with the confirmation process suggested by Vice Chair Scruggs, is consistent and satisfies the needs of both MAG and the Legislature.

Vice Chair Scruggs commented that a timeline might be set in legislation by which a decision would need to be made. She recalled the selection of the business representatives to the TPC one year ago when many declined to serve. Vice Chair Scruggs commented that getting 12 people to agree to serve is next to impossible. There is a great commitment of time, a steep learning curve, and the individual must have an interest in transportation. Vice Chair Scruggs commented that MAG feels extremely fortunate to have the six business members the TPC now has. Vice Chair Scruggs expressed serious doubt for getting a pool of that large a number.

Staff reviewed direction given. There would be six appointments from the pool of 12 offered by MAG, with the confirmation by the legislative transportation committees, while taking into consideration the difficulties in securing a large pool of candidates.

Vice Chair Scruggs noted that the legislators could interview the nominees if they chose. She expressed that she remained opposed to appointments by the Legislature. Vice Chair Scruggs stated that a core of the Legislature remains out of touch with what citizens who pay the tax want in a transportation system. She remarked that it seemed like an effort to replace members of the TPC with those more like-minded, which may not reflect the desires of the community-at-large.

Mr. Smith reviewed issues with utility relocation costs. MAG's position is to not have this included in the bill. He stated that Phoenix has been the lead negotiator on this issue, which may be resolved by the rail cities before the bill is introduced.

Mr. Shultz mentioned a letter from Commissioner Mundell requesting the opening of a docket on costs related to utility relocation. He mentioned that the Commissioner is looking at numbers and data.

Chairman Giuliano the TPC has demonstrated a willingness in the past to work through such issues.

Mr. Shultz commented on behalf of his company. It has franchises with Phoenix and 49 other cities, and under those franchises, his company is required to relocate facilities for the construction projects of a public purpose. He indicated that his company means to continue to abide by those requirements and not pursue reimbursement through the half cent sales tax, nor request that cities reimburse it. Mr. Shultz commented that ultimately, its customers will see this as a cost of doing business. Mr. Shultz commented that he respected the position of other utility companies, and they are seeking other alternatives.

Councilmember Bilsten expressed concern that this is a situation of the state interfering with local governments and the franchise agreements cities have. She stated that the TPC has been told, piece by piece, this must be done to move forward. Councilmember Bilsten stated that she would like to send the message that the TPC worked hard and did its job. Everyone gave some and took some. After the hard work the TPC did, at the last hour the TPC is being told that it needs to give in if it wants a transportation plan. Councilmember Bilsten remarked that she was not in favor of utility relocation costs be reimbursed by the sales tax. She requested that staff plead the TPC's case. Councilmember Bilsten commented that if four or five disagree, that is not the total vote. Look past those and move forward with the good package intact.

Mr. Arnett expressed his agreement. Chairman Giuliano commented that progress has been made on the issue.

Mr. Smith shared comments from some of the legislative drafting committee. They have significant challenges at the Legislature because there are legislators who want to change the modal percentages. They are holding fast on the firewalls content of the Plan. There are some accountability measures they want to have teeth so they can bring votes in.

Mayor Manross requested being very respectful of cities' positions regarding franchise agreements. She expressed concern that there could be great cost to her city down the road. Mayor Manross commented that the state should not interfere with city franchise agreements. She expressed concern that this could set a bad public policy precedent.

Mr. Smith continued on to discussion of the Life Cycle item on page five of the summary. He noted that MAG performs the Life Cycle management for streets and HB 2292 says this function will be performed by ADOT. Mr. Smith explained that ADOT has indicated they do not want the function and a bill is being drafted so that MAG does the Life Cycle for streets. ADOT would continue to be responsible for the Life Cycle for freeways. Mr. Smith noted that ADOT has the fiduciary responsibility for funding. Additionally, ADOT has indicated that the Pinal County projects do not need to be included in the legislation. He stated that ADOT feels it has acknowledged they would address the projects in their long range plan when they passed their resolution.

Mr. Smith stated that Maricopa 2020 is hosting a legislative day on the RTP at 11:30 a.m. on January 14, 2004. Mr. Smith stated that ADOT, RPTA, and MAG will have displays set up at the event. He encouraged members to attend.

Chairman Giuliano announced that opportunities were available for the TPC to reconvene during the January 3rd to 12th period, if necessary. He stated that the TPC would be kept informed.

Mr. Smith announced that MAG had been notified that the conformity analysis had been approved by FHWA and FTA.

Direction given to staff on the audit issue was reviewed. Staff would go back to work on the 17-member, 3/4 majority vote to override a not warranted finding.

There being no further business, the meeting adjourned at 5:48 p.m.

Chairman

Secretary